



Aerius Flight LLC

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11742 Cedarbrook
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January 29, 2016

Senator Tom Casperson
100 N Capitol Ave
Lansing, MI 48933

Dear Senator Casperson:

I am writing on behalf of Aerius Flight LLC, Michigan's first legally authorized commercial drone firm, to express my serious concerns regarding your proposed legislation to effectively usurp navigable airspace from the regulatory authority of the Federal Aviation Administration. We know supporting Michigan small business is important to you, but as drafted, your bills would not only severely inhibit the viability of small businesses like ours, but would likely also expose the State of Michigan to serious legal challenges regarding the authority of the State to regulate air commerce and air navigation.

Aerius Flight LLC is the first company in Michigan to receive a Section 333 exemption from the FAA. This exemption allows us to operate small Unmanned Aerial Systems (UAS), commonly called "drones," for compensation or hire. Aerius Flight LLC produces aerial photography and videography for a variety of different industry; we have clients in luxury real estate, construction, infrastructure, and agriculture. Our company was founded by alumni of Western Michigan University's world-renowned College of Aviation. We hold advanced pilot certifications and all employed full-time in the aviation industry. Our founding partners are nationally recognized experts in drone policy and safety, and have been invited speakers at the nation's largest drone conferences and published authors in industry periodicals. Our pilots have tens of thousands of hours operating in the National Airspace System, on both manned and unmanned aircraft. While our company had humble beginnings, we are poised for dramatic growth, and are concerned that attempts by the State to regulate UAS would be duplicative, confusing to both hobbyists and commercial operators alike, unnecessarily restrictive for small businesses like ours, and lacking a sound legal foundation.

As the FAA notes in a recent policy circular intended to clarify the delineation of authority between States and the Federal government, Congress vested sole authority to regulate air safety and navigation with the FAA.¹ Indeed, the FAA notes that "substantial air safety issues are raised when state or local governments attempt to regulate operation of flight of aircraft." Further, they stress that a single consistent regulatory system, rather than varying standards, is the only way to ensure safety of flight for both manned and unmanned aircraft. As highly experienced manned-aircraft pilots, we concur with the FAA's assessment that any such efforts would be confusing and duplicative for drone operators, potentially causing traffic conflicts between manned and unmanned aircraft.

¹ https://www.faa.gov/uas/regulations_policies/media/UAS_Fact_Sheet_Final.pdf



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These bills could also create a significant expense for the State as it finds itself defending against legal challenges as a result of the bills' passage and enforcement. Case law has proven time and time again, that "Where Congress occupies an entire field . . . even complimentary state regulation is impermissible." This concept has even been affirmed in aviation-specific precedent. The FAA's policy circular, issued December 17, 2015, encourages states to consult with the FAA's chief legal counsel prior to legislating on UAS issues. We hope you will do the same.

The FAA is currently in the process of finalizing a new regulatory structure for UAS operations, that are expected to be issued within the year. These new regulations will address the qualifications for those individuals wishing to fly drones, and specific restrictions on their operation. We would suggest that the State assess these final regulations when they are published, and revisit your proposals at that time.

As you will likely seek input from stakeholders, allow me to offer to testify at your upcoming hearing on this issue. I would be pleased to provide you and your committee with our analysis of how this legislation would negatively impact our business.

Thank you very much for your thoughtful consideration.

Sincerely,

Kenneth R. Beason, CFI/CFII
Chief Executive Officer
Aerius Flight LLC